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STATE SOVEREIGN IMMUNITY AND TORT LIABILITY IN ALL 50 STATES

Sovereign or governmental immunity concern themselves with the various legal doctrines or statutes that provide federal, state, or local governments immunity from tort-based claims, as well as exceptions to or waivers of that immunity. Generally, a state government is immune from tort suits by individuals under the doctrine of sovereign immunity. Local governments, municipalities, and political subdivisions of the state are immune from tort suits by virtue of governmental immunity, because the state grants them immunity, usually in its constitution. This chart deals with *state* governmental immunity and liability. It should be noted that lawsuits against states, their officers, and employees are frequently asserted under federal law, *e.g.,* 42 U.S.C. § 1983, or other similar statutes. This chart deals only with the separate body of law governing state law tort claims against state governments. It does not cover federal claims under the Federal Tort Claims Act (FTCA) (28 U.S.C. § 2674), which is the subject of another chart found **HERE**, or claims of negligence against municipal, county, or local governments, which is the subject of another chart found **HERE**.

Generally

The common law origins of *sovereign immunity* can be traced back to the notion that the king made the laws, and thus anything the king did was perforce legal. The doctrine was thought to pass through to the several states before the founding of this country. When the Constitution was drafted in 1787, Article III raised questions about this principle by exposing states to suits from citizens of other states and foreign states. U.S. Const. Art. III, § 2 ("The judicial Power shall extend ... to Controversies ... between a State and Citizens of another State ... and between a State ... and foreign States, Citizens or Subjects"). In 1793, the U.S. Supreme Court dealt with precisely this issue in *Chisholm v. Georgia* and abolished the doctrine of sovereign immunity with respect to states. *Chisolm v. Georgia,* 2 U.S. 419 (1793) ("the Constitution warrants a suit against a State, by an individual citizen of another State"). Several years later, in response to *Chisholm*, Congress proposed, and three-fourths of the states ratified, the 11th Amendment, which reinstated states' sovereign immunity, at least to the extent that Article III encroached upon it. Therefore, there could be no valid suit against a government entity. By the early 1800s, this sovereign immunity was adopted by nearly every state. However, the enjoyment of sovereign immunity is limited to government bodies that are truly "sovereign," namely the U.S. federal government and each state government. This presumed immunity was based on the belief that governments would be paralyzed if they faced potential liability for all actions of their employees. Sovereign immunity today has been limited or eliminated, at least in part, in most jurisdictions by either legislative or judicial action.

Still undecided was the issue of whether a state could be sued by its own citizens. For more than 100 years, states enjoyed protection from lawsuits, and the Supreme Court extended 11th Amendment protections to prohibit suits against a state by one of its citizens. *Hans v. Louisiana*, 134 U.S. 1 (1890). However, the doctrine began to weaken in 1908 when the Supreme Court ruled that sovereign immunity was not without exceptions and states could be sued for an unconstitutional action by the state. *Ex parte Young*, 209 U.S. 123 (1908). In 1946, the federal government passed the Federal Tort Claims Act, which waived sovereign immunity for itself with

respect to torts. Federal Torts Claims Act, Pub. L. No. 79-601, ch. 753, 60 Stat. 842 (1946). Soon thereafter, state legislatures began to enact their own state tort claims acts.

A compromise doctrine subsequently developed at common law, whereby government officers could be held liable for the negligent performance of *ministerial* functions (operational acts involving carrying out policies), but not for *discretionary* functions (those involving policy setting and decision making). *Restatement (Second) of Torts* § 895D (1965). Immunity from liability for discretionary acts developed as an extension of the immunity afforded judicial officers to similarly shield legislative and administrative officials. The definition and application of the two types of functions evolved over time, causing confusion and uncertainty. Whenever suit was brought against an individual government employee because of his official conduct, the court had to consider the practical effects of liability and make a value judgment between the social and individual benefit from compensation to the victim, together with the wholesome deterrence of official excess on one hand; and on the other, the evils that would flow from inhibiting courageous and independent official action, and deterring responsible citizens from entering public life. Each state evolved differently with regard to its grant of sovereign immunity and the exceptions to immunity it provided.

Sovereign immunity today has been limited or eliminated, at least in part, in most jurisdictions by either legislative or judicial action. Today, in many states, Tort Claims Acts waive subrogation legislatively. The state statutes waiving sovereign immunity are generally of three types: (1) absolute waivers; (2) limited waivers applicable only to specific types of claims; and (3) general waivers subject to certain defined exceptions. The first type of statutory scheme simply abolishes state immunity altogether. They usually include a blanket statement of state liability for the torts of governmental entities and employees. The second type of statute maintains sovereign immunity overall, but provides limited waivers of immunity for certain state acts. The third type provides a general waiver of sovereign immunity, but lists several specified exceptions.

In many jurisdictions, government officials still enjoy immunity from liability in connection with the performance of their *discretionary* or *governmental* functions and acts. On the other hand, liability arising out of the negligent performance of a *proprietary* or *ministerial* act by a governmental official is not granted immunity. The doctrine of sovereign immunity varies from state-to-state, but is usually contained either in a statutory framework (such as a Tort Claims Act) or within judicial and case decisions. Excluded from the doctrine are cities and municipalities, which are considered to be mere creatures of the legislature, and which have no inherent power and must exercise delegated power strictly within the limitations prescribed by the state legislature. As such, by default, municipalities are liable for their actions unless shielded by state law.

Today, many state tort claims acts are modeled after the FTCA and constitute a statutory general waiver of sovereign immunity allowing tort claims against the state, with certain exceptions, or reenact immunity with limited waivers that apply only to certain types of claims. Some of these acts are called, “Tort Claims Acts,” but many others are given different names. State claims acts (as opposed to tort claims acts) are another type of statute that limit immunity and establish a procedure for bringing claims against a state government.

State laws may provide for “discretionary function” exceptions to state liability (a discretionary function exception retains state immunity for essential governmental functions that require the exercise of discretion or judgment, such as planning or policy level decisions). These “discretionary functions” are distinguished from “ministerial” or “operational” functions that involve only the execution of policies and set tasks. State may also employ a “misrepresentation exception” to state liability (a misrepresentation exception means immunity still applies in certain cases of governmental failure to communicate correct information).

These acts sometimes establish a special court of claims, board, or commission to determine such claims, and often limit damages or provide for certain exceptions to liability. Connecticut, Illinois, Kentucky, North Carolina and Ohio use this approach.

Premises Liability

In cases involving premises liability, many states provide immunity or limit liability for premises defects. This is done by establishing a relatively low standard of care owed to those on government property, such as requiring that the government exercise that level of care which a private person would owe a licensee, instead of the

"ordinary care" standard that has been adopted by most states for actions between private parties. In addition, some states create different standards of care depending on the type of defect at issue ("special defect" is an unusual danger which is more dangerous than most defects), and whether the injured party paid to use the property.

Operation of Motor Vehicle

Many states expressly provide for waiver of immunity for property damage, personal injury, or death caused by the wrongful act or omission or the negligence of a state employee acting within the scope of employment and arising out of the operation or use of a motor-driven vehicle or motor-driven equipment. This liability may even be extended to the operation of emergency vehicles, which are permitted to disregard traffic rules and the speed limit, provided it displays its lights and sirens while doing so. Even then, it must exercise "due regard" for the safety of the motoring public. Regrettably, this is not always done with the foreseeable result that innocent third parties at the wrong place at the wrong time are injured. Most states provide for a waiver of sovereign immunity for the negligent operation of governmental vehicles, but the burden is on the plaintiff to establish that the emergency vehicle exceeded the liberties given to it under state law by failing to exercise their emergency lights and siren and/or by disregarding the due regard for the safety of the public. Other states, like Alabama, strongly preserve sovereign immunity, even for motor vehicle accidents.

Highway Defect Statutes

Enacting highway defect statutes is another specific way of waiving the sovereign immunity of state transportation departments. This approach focuses on the potential liability of a state Department of Transportation, whereas a general waiver of sovereign immunity exposes a state to tort liability on any theory. For example, the highway defect statute established in Connecticut states: "*Any person injured in person or property through the neglect or default of the state or any of its employees by means of any defective highway, bridge, or sidewalk which it is the duty of the commissioner of transportation to keep in repair…may bring a civil action*." C.G.S.A. § 13a-144. Since highway defect statutes are different from Tort Claims Acts, it must be determined whether a plaintiff's claim is associated to a "road defect" statute or arises under the Tort Claims Act. Under a defect statue, the question is whether the claimant's injuries were actually caused from a defect that arose within the meaning of the statute. In other words, was the highway defect in itself defined to be the cause of liability? However, the focus with a Tort Claims Act is whether the injury was the result of a negligent act by a governmental entity. These differences are what separate a "highway defect statute" from a "Tort Claims Act".

Notice Requirements

State Tort Claims Acts usually require that a certain type of notice be given to the governmental entity within a certain period of time and containing very specific information. Failure to provide sufficient notice can be fatal to an action against a governmental entity and constitute a complete bar to an action. These statutes usually specify that a plaintiff must provide the governmental entity with notice of the name and address of the plaintiff, date, place, and circumstances of the occurrence or transaction giving rise to the claim asserted, a general description of the injury, damage, or loss incurred, the name of the public entities or employees causing the injury, damage or loss, and the specific amount of damages claimed (*i.e.,* a "sum certain"). Many states require such notice to be submitted on a form that they provide or specify.

Monetary Limits or Caps

State law often provides monetary damage limitations of "caps" on the amount of money that can be recovered from a governmental entity. At least 33 states' Acts limit, or "cap," the monetary amount for damages that may be recovered from judgments against the state, and at least 29 states (often in combination with a cap) prohibit a judgment against the state from including punitive or exemplary damages. Texas, for example provides a per person limit of $250,000 for claims against the

State, a $100,000 limit for claims against local governments, and a $250,000 limit for claims against municipalities. The New Jersey Tort Claims Act, on the other hand, provides for a verbal threshold which states that, *"No damages shall be awarded against a public entity or public employee for pain and suffering resulting from any injury; provided, however, that this limitation on the recovery of damages for pain and suffering shall not apply in cases of permanent loss of a bodily function, permanent disfigurement or dismemberment where the medical treatment expenses are in excess of $ 3,600."* Damage caps are often set between $100,000 and $1 million. Some states, such as Arkansas and California, have no damage caps. At least 33 states' Acts limit, or "cap," the monetary amount for damages that may be recovered from judgments against the state, and at least 29 states (often in combination with a cap) prohibit a judgment against the state from including punitive or exemplary damages.

Public Duty Doctrine

Separate and apart from the concepts of sovereign immunity and official immunity, some states adopt the Public Duty Doctrine. It can serve as an exception to immunity in the performance of a governmental or discretionary act. The Public Duty Doctrine states that a public employee is not civilly liable for the breach of a duty owed to the general public, rather than a particular individual. This Public Duty Doctrine is based on the absence of a duty to the particular individual, as contrasted to the duty owed to the general public. This doctrine does not insulate a public employee from all liability, as he or she could still be found liable for a breach of *ministerial* duties in which an injured party had a "special, direct, and distinctive interest." See, *e.g., Southers v. City of Farmington*, 263 S.W.3d 603 (Mo. 2008). It is not an affirmative defense, but rather delineates the legal duty the defendant public employee owes the plaintiff. In effect, the applicability of the Public Duty Doctrine negates the duty element required to prove negligence, such that there can be no cause of action for injuries sustained as the result of an alleged breach of public duty to the community as a whole.

Federal Civil Rights Liability (42 U.S.C. § 1983)

The Federal Civil Rights Statute is the basis by which a state or local government employee can assert a civil rights claim. Section 1983 provides:

> *Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.*

The most common claims brought under § 1983 are for violation of constitutional rights, including:

- First Amendment rights of freedom of religion, speech, and press.
- Fourth Amendment protections against searches and seizures.
- Fifth Amendment protection from self-incrimination.
- Eighth Amendment protection against cruel and unusual punishment.
- Fourteenth Amendment protections against deprivations of life, liberty or property without due process.

"Any citizen" can bring a § 1983 action against any person who, while acting "under color of state law" deprives the plaintiff of his or her constitutional rights and that challenged conduct caused a constitutional violation. The "color of law" element is established where a public employee acts pursuant to his or her office or in his or her official capacity.

Jurisdiction

Suits against the states must be brought in state court. The 11th Amendment to the U.S. Constitution limits private actions brought against states in federal court. It provides:

> *The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any foreign State.*

This Amendment prevents federal courts from exercising jurisdiction over state defendants. A federal court will not even hear the case if a state is the defendant. A state may not be sued in federal court by its own citizen or a citizen of another state, unless the state consents to jurisdiction. Eleventh Amendment immunity extends to suits filed against the state in state courts and before federal administrative agencies. Unless the state or the federal government creates an exception to the state's sovereign immunity, the state is immune from being sued without consent by any citizen in federal courts, state courts, or before federal administrative agencies.

*NOTE: This chart concerns itself with the immunity granted to and liability of individual state governments and their employees. Issues regarding the immunity granted to and liability of "political subdivisions" (i.e., local government entities created by the states to help fulfill their obligations, including counties, cities, towns, villages, and special districts such as school districts, water districts, park districts, and airport districts) are addressed in our sister chart entitled "Municipal/County/Local Governmental Immunity and Tort Liability In All 50 States found **HERE**."*

STATE	TORT CLAIMS ACT (None or Citation)	NOTICE DEADLINES	CLAIMS/ACTIONS ALLOWED	COMMENTS/EXCEPTIONS	DAMAGE CAPS
ALABAMA	**No Tort Claims Act.** Alabama distinguishes between liability of the *State* and liability of State employees *in their individual capacity* (State-agent liability). Alabama enjoys strong sovereign immunity (known as "State-agent immunity"). It is almost invincible. *Hutchinson v. Bd. of Trs. of Univ. of Ala.*, 256 So.2d 281 (Ala. App. 1971). It can never be made a defendant in any court. Ala. Const. Art. I, § 14. ("§ 14"). Alabama immunity is called "State immunity". Individual State employee immunity is called "State-agent immunity."	None	Individual State employees have qualified immunity (*State-agent immunity*) and can be sued for conduct "contrary to clearly established law" if not acting in good faith. Issue is whether a reasonable official could have believed his or her actions were lawful in light of clearly established law. *Ex parte Sawyer*, 876 So.2d 433 (Ala. 2003). State employees whose positions exist by virtue of legislative pronouncement get "State-agent immunity." Claims against State employees who serve as constitutional officers barred by full *State immunity*. Burden-shifting process. State employee must show that action was subject to immunity. Then burden shifts to plaintiff to show exception. *Ex parte Estate of Reynolds,* 946 So.2d (Ala. 2006) (*e.g.,* employee on personal errand at time of accident).	Operating a vehicle in scope of employment is protected. State-agent immunity protects State employees when formulating plans, exercising judgment, or discharging duties (including driving a vehicle), unless: (1) When the U.S. or Alabama Constitutions or state law require otherwise; or (2) Where State agent acts "willfully, maliciously, fraudulently, in bad faith, beyond his or her authority, or under a mistaken interpretation of the law."* *Ex parte Cranman,* 792 So.2d 392 (Ala.2000); *Parker v. Amerson,* 519 So.2d 442 (Ala. 1987). *Police given Peace Officer Immunity under § 6-5-338(a) for "discretionary acts." Two-prong test: (1) defendant must prove discretionary function; and (2) burden then shifts to plaintiff to show bad faith/malice/willfulness. *Hollis v. City of Brighton,* 950 So.2d 300 (Ala. 2006). Liability insurance covering State employees for wrongful acts is required. Ala. Code § 36-1.6.1.	None The damage caps found in Ala. Stat. §§ 11-93-1 to 11-95-3 do not apply to actions against State. No punitive damages against the State. Ala. Stat. § 6-11-26.

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ALASKA	**Actions Where State Is a Party.** Alaska Stat. §§ 09.50.250-.300 (1962). Abolished sovereign immunity and made State liable for its torts, with limited exceptions, including *discretionary* functions.	"*The legislature shall establish procedures for suits against the State*." Article II, § 21 of Alaska Constitution. Claims against peace officers shall be made within two years after the cause of action. Alaska Stat. § 09.10.070.	The doctrine of sovereign immunity allows any person or corporation having a tort claim to bring action against the State. Alaska Stat. § 09.50.250. Failure to remove natural accumulation of ice and snow on state highways. *State v. Abbott*, 498 P.2d 712 (Alaska 1972). Operating motor vehicle. *Rutherford v. State*, 605 P.2d 16 (Alaska 1979). Failure to provide sign warning bicyclists of hazardous railroad crossing. *Guerrero ex rel. Guerrero v. Alaska Hous. Fin. Corp.*, 123 P.3d 966 (Alaska 2005).	A tort claim may not be brought when the claim is an action for a tort based upon an act or omission of a State employee in the execution of a statute or regulation or performance or failure to perform a discretionary function or duty. Alaska Stat. § 09.50.250. Discretionary acts or functions for which State has immunity from tort liability are only those acts or functions occurring at planning level, as opposed to operational level; planning decision is one that involves policy formation, whereas operational decision involves policy execution or implementation. *State, Dep't of Transp. & Pub. Facilities v. Sanders*, 944 P.2d 453 (Alaska 1997). See Alaska Stat. § 09.50.250 for other exceptions.	Damages awarded by a court for all claims arising out of a single injury or death may not exceed $400,000. Alaska Stat. § 09.17.010. No punitive damages against the State. Alaska Stat. § 09.50.280.
ARIZONA	**Actions Against Public Entities or Public Employees Act.** Public entities are granted absolute immunity for the exercise of a judicial, legislative, or discretionary function. A.R.S. § 12-820.01 (1984).	All actions against public entities or public employees shall be brought within one year after the cause of action. A.R.S. § 12-821. Claims against the State shall be filled within 180 days after the action occurs. A.R.S. § 12-821.01.	A public entity is not liable for losses that arise out of an act or omission determined to be a criminal felony by a public employee unless the public entity knew of the employee's propensity for that action. This subsection does not apply to acts or omissions arising out of the operation or use of a motor vehicle. A.R.S. § 12-820.05.	If absent proof of a public employee's gross negligence or intent to cause injury, public entities have qualified immunity for: (1) The failure to make an arrest or to retain an arrested person; (2) An injury to the driver of a vehicle that is caused by a violation by another driver; and (3) Preventing the sale of a handgun to a person who may lawfully possess a handgun, etc. See A.R.S. § 12-820.02 for other exceptions.	None No law shall limit the amount of damages to be recovered for causing the death or injury of any person. Ariz. Const. Art. II, § 31. No punitive damages against the State. A.R.S. § 12-820.04.

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ARKANSAS	**No Tort Claims Act.** Arkansas shall never be made a defendant in any of her courts. (applies only to state) Ark. Const. Art. V, § 20. The Arkansas State Claims Commission shall have exclusive jurisdiction over all claims against the State of Arkansas and its several agencies. A.C.A. § 19-10-204.	Claim must be filed with the Director of the Arkansas State Claims Commission within the period allowed by law for the same type of claim against a private person. A.C.A. § 19-10-209.	The State's sovereign immunity is waived when: (1) the State is the moving party seeking relief; (2) an act of the legislature creates a specific waiver of immunity; and (3) where a State agency's actions are illegal, or when a public employee refuses to do a ministerial act required by statute. *State Office of Child Support Enf't v. Mitchell*, 954 S.W.2d 907 (1997*); Travelers Cas. & Sur. Co. of Am. v. Arkansas State Highway Comm'n*, 120 S.W.3d 50 (2003).	Few exceptions to immunity granted by Arkansas' Constitution. State officials are not immune to the extent that they are covered by liability insurance. A.C.A. § 19-10-305. Arkansas requires all political subdivisions to carry the minimum amounts of motor vehicle liability coverage. Therefore, in the case of a car accident, all political subdivisions may be held liable up to the minimum limits. A.C.A. § 21-9-303.	None No punitive damages against the State. A.C.A. § 21-9-203.
CALIFORNIA	**California Tort Claims Act.** Except as otherwise provided by statute, *public entities* are not liable for an injury, arising from an act or omission of the public entity or their employee. Cal. Gov't Code § 815. Numerous immunities provided. Cal. Gov't Code §§ 815 - 996.6 (1963). Public employee liable for injury to the same extent as a private person. Cal. Gov't Code § 815.	Personal injury/ property claim within six months after accrual of the cause of action. All other claims shall be presented within one year. Cal. Gov't Code § 911.2. State Board of Control Gov't Claims Branch, P.O. Box 3035 Sacramento, CA 95812-3035. Board must respond within 45 days. Then six (6) months to file suit	A *public entity* (*e.g.,* state) is liable for injuries proximately caused by their employee's acts or omissions except when that employee is immune from liability. Cal. Gov't Code § 815.2. A public entity is liable for death or injury proximately caused by a negligent or wrongful act or omission in the operation of any motor vehicle by a public employee acting within the scope of his employment. Cal. Veh. Code § 17001.	A public employee is not liable for an injury resulting from his act or omission where the act or omission was the result of a discretionary act. Cal. Gov't Code § 820.2. Public entities are not liable for injuries caused by misrepresentation. Cal. Gov't Code § 818.8. Public entities are not liable for an injury caused by adopting or failing to adopt an enactment or by failing to enforce any law. Cal. Gov't Code § 818.2.	None No punitive damages against the State. Cal. Gov't Code § 818.

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COLORADO	**Colorado Governmental Immunity Act.** C.R.S. §§ 24-10-101 through 24-10-120. A public entity is immune from liability in all tort claims for injury except as otherwise provided. C.R.S. §§ 24-10-101 – 120 (1971).	Claims against the State shall be filed within 182 days of the injury. C.R.S. § 24-10-109. File with Atty General. File suit after denial or 90 days has passed. C.R.S. § 24-10-109(6). Use Statute of Limitations for that type of action. C.R.S. § 24-10-109(5).	The Colorado Governmental Immunity Act generally bars action against the State and public entities for tort claims. *Medina v. State*, 35 P.3d 443 (Colo. 2001). A public entity, by resolution, may waive immunity. C.R.S. § 24-10-104.	Immunity is waived for claims resulting from: (1) The operation of a vehicle owned by a public entity used in the scope of employment, except emergency vehicles; (2) The operation of public hospital, correctional facility, or jail; (3) The dangerous condition of public housing; (4) The dangerous condition of a public roadway; and (5) The operation and maintenance of public facilities. C.R.S. § 24-10-106.	$350,000 Per Person $900,000 per occurrence, with no one person receiving more than $350,000. No punitive damages against the State. C.R.S. § 24-10-114.

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CONNECTICUT	**Claims Against The State.** No State officer or employee shall be personally liable for damage or injury, not wanton, reckless or malicious, caused within the scope of his or her employment or duties. C.G.S.A. § 4-165 (1959).	Claims against the State shall be presented within one year after it accrues. C.G.S.A. § 4-148. General Assembly may, through special act, authorize a person to present a claim after one year if: (1) just and equitable; and (2) express finding of compelling equitable circumstances that would serve a public purpose. Claims for injuries resulting from defective highways, sidewalks, roads, or bridges must be brought within two (2) years and notice within ninety (90) days. Inaccuracy in notice will preclude recovery. C.G.S.A. §§ 13a-149, 13a-144.	Connecticut's doctrine of sovereign immunity does not allow the State to be sued without its consent. The Claims Commissioner was created to process claims and grant consent for claims against the State. C.G.S.A. §§ 4-142 and 4-160. Commissioner can approve the immediate payment of "just claims" not exceeding $7,500. "Just claims" are those that in equity and justice the State should pay, as long as it caused the damage or injury. C.G.S.A. §§ 4-141, 158. Suits can be brought against state for defective or poorly maintained highways, bridges, and sidewalks. Not limited to roads within the state highway system, but no liability for sidewalks maintained by a municipality. Government must have actual or constructive notice. C.G.S.A. § 13a-144.	There are certain claims which may be brought directly against the State: (1) Any person injured through the negligence of any State official or employee when operating a motor vehicle owned and insured by the State shall have a claim against the State. C.G.S.A. § 52-556 (not subrogation claims); (2) Claims for the periodic payment of disability, pension, retirement or other employment benefits; (3) Claims upon which suit otherwise is authorized by law (injured by defective bridge/road. C.G.S.A. § 13a-144) (not subrogation claims); and (4) Claims for which an administrative hearing procedure otherwise is established by law. NOTE: Subrogation claims under C.G.S.A. § 52-556 and § 13a-144 may not be brought by subrogated carrier because they are not a "person". *Nationwide Gen. Ins. Co. v. Colon*, 2016 WL 3391622 (Conn. Super. 2016).	None

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DELAWARE	**Delaware Tort Claims Act.** No claim shall arise against the State, public officer/ employee if the act/ omission: (1) arose out of an official duty requiring discretion; (2) was done in good faith and for the best interest of the State; and (3) was done without gross negligence. Del. Code tit. 10, § 4001-4005 (1978).	None	Bringing a tort claim against the State requires a party to prove that the action is not precluded by the State Tort Claims Act or the doctrine of sovereign immunity. *Marvel v. Prison Indus.*, 884 A.2d 1065 (Del. Super. 2005).	Sovereign Immunity is waived where insurance coverage exists by statute. Del. Code tit. 18, § 6511. Where a State officer/employee is negligent in performing routine functions, they may be held personally liable. This includes motor vehicle accidents. *Simon v. Heald*, 359 A.2d 666 (Del. Super. 1976).	None
DISTRICT OF COLUMBIA	**Claims Against District.** The Mayor of the District of Columbia is empowered to settle, in his discretion, claims against D.C. D.C. Code Ann. § 2-401 through § 2-416 (1929).	An action for unliquidated damages to person or property must be made by hand delivery or U.S. mail within six months in writing to the Mayor, stating the time, place, cause, and circumstances of the injury or damage. D.C. Code Ann. § 12-309.	D.C. shall not be immune for a claim resulting from a State employee acting within their scope of employment negligently operates a motor vehicle. D.C. Code Ann. § 2-412. Pothole accidents, fallen trees, damage caused by D.C. government, its property or its employees.	A discretionary governmental function of D.C. is immune from suit. The test to determine if an action is discretionary is whether that function poses a threat to the quality and efficiency of government if liability is imposed on the negligent act or omission. *Shifrin v. Wilson*, 412 F. Supp. 1282 (D.D.C. 1976).	None

STATE	TORT CLAIMS ACT (None or Citation)	NOTICE DEADLINES	CLAIMS/ACTIONS ALLOWED	COMMENTS/EXCEPTIONS	DAMAGE CAPS
FLORIDA	**Florida's Sovereign Immunity Statute.** Government entities may be liable for damages resulting from negligent or wrongful action of public employees in the scope of their employment, if a private person would be liable in similar circumstances. F.S.A. § 768.28(1) (1973).	An action may not be brought against the State or one of its agencies, unless claimant presents the claim within three years after such claim accrues. For wrongful death claim, it must be presented within two years. F.S.A. § 768.28 (6)(a).	Operational functions, such as negligently driving a motor vehicle, are not covered within the discretionary act exception. *Kaisner v. Kolb*, 543 So.2d 732 (Fla. 1989).	Public duty exception. A governmental entity is not liable for a tort caused by the breaching of a duty owed to the public at large. *Lewis v. City of St. Petersburg*, 98 F. Supp.2d 1344 (M.D. Fla. 2000) *aff'd in part*, *rev'd in part*, 260 F.3d 1260 (11th Cir. 2001). Discretionary Function Exception. A governmental agency is immune from tort liability based upon actions that involve discretionary functions. *Cook ex rel. Estate of Tessier v. Sheriff of Monroe County, Fla.,* 402 F.3d 1092 (11th Cir. 2005).	The State shall not be liable to pay a claim to any one person which exceeds the sum of $200,000 or $300,000 for any claim arising out of the same incident or occurrence. F.S.A. § 768.28 (5). No punitive damages against the State. F.S.A. § 768.28 (5).
GEORGIA	**Georgia Tort Claims Act.** Sovereign immunity is waived for torts of State officers and employees while acting within the scope of their employment and shall be liable for such torts in the same manner as a private individual would be liable under like circumstances. O.C.G.A. §§ 50-21-20, 50-21-37 (1992).	Written notice of a claim shall be given within twelve (12) months of the date the loss. O.C.G.A. § 50-21-26.	The State is subject to liability for its employee's negligence when operating a motor vehicle if the damage was not caused from a method of providing police protection. *Georgia Dep't of Pub. Safety v. Davis*, 285 Ga. 203, 676 S.E.2d 1 (2009).	Georgia does not waive immunity for losses arising from: (1) an act or omission by a State employee exercising due care in the execution of a statute, regulation, or rule; (2) the exercise or the failure to exercise a discretionary function; (3) the collection of any tax; (4) legislative or judicial action; and (5) methods of providing law enforcement. See O.C.G.A. § 50-21-24 for other exceptions.	Except as provided, Georgia is not liable for damages exceeding $1 million for single occurrence and the State's liability per occurrence shall not exceed $3 million. O.C.G.A. § 50-21-29. No punitive damages against the State. O.C.G.A. § 50-21-30.

STATE	TORT CLAIMS ACT (None or Citation)	NOTICE DEADLINES	CLAIMS/ACTIONS ALLOWED	COMMENTS/EXCEPTIONS	DAMAGE CAPS
HAWAII	**Hawaii State Tort Liability Act.** Haw. Stat. § 662-2 (1957). Immunity waived for State employees to the same extent as private individuals under similar circumstances ("Private Analog") unless exception. *Cootey v. Sun Inv., Inc*., 718 P.2d 1086 (Haw. 1986).	Claim for damage or injury must be presented to the State within two (2) years of when claim accrues. Haw. Stat. § 662-4. Medical tort claims shall be presented within six (6) years. Haw. Stat. § 657-7.3.	As a no-fault state, no claim arises against a liable State employee for negligently operating a motor vehicle until the accident is deemed to be "serious" (medical expenses over $5,000, use of body part permanent, in death). Property claims allowed. Haw. Stat. § 431:10C-306; *Savini v. Univ. of Hawaii*, 113 Haw. 459, 153 P.3d 1144 (2007). Immunity also waived to extent of insurance. Haw. Stat. § 661.11.	Hawaii does not waive immunity for any claim arising from: (1) An act or omission in the execution of a statute or a discretionary duty; (2) Any claim arising in the collection of any tax; and (3) Any claim arising out of assault, battery, false imprisonment. See Haw. Stat. § 662-15 for other exceptions.	Non-economic damages are capped at $375,000. Haw. Stat. § 663-8.7. No punitive damages against the State. Haw. Stat. § 662-2. Any judgment over $1 million against State may be paid over five years. Haw. Stat. § 657-24.
IDAHO	**Idaho Tort Claims Act.** Every governmental entity is subject to liability arising out of its negligent or otherwise wrongful acts or omissions and those of its employees acting within the scope of employment to the same extent a private person would be liable. Idaho Code § 6-903 (1976).	Tort claims against the State shall be filed with the Secretary of State within 180 days from when the claim arose and action must commence within two years. Idaho Code §§ 6-905 and 6-911.	A governmental entity will be held liable for the negligence of their employees while driving a motor vehicle as long as the employee was driving while in the scope of their employment and no exceptions apply. *Teurlings v. Larson*, 156 Idaho 65, 320 P.3d 1224 (2014).	Idaho and its employees while acting within the scope of their employment and without malice shall not be liable for: (1) An act or omission in the execution of a statute or a discretionary duty; (2) Any claim arising out of assault, battery, misrepresentation, false imprisonment; and (3) Arises out of the collection of any tax or fee. See Idaho Code § 6-904; § 6-904 (a); and § 6-904 (b) for other specific exceptions.	Idaho shall not be liable for damages from a single occurrence exceeding $500,000. This limit does not apply if the State has purchased liability insurance in excess or if the action is caused by willful or reckless conduct. Idaho Code § 6-926. No punitive damages against the State. Idaho Code § 6-918.

STATE	TORT CLAIMS ACT (None or Citation)	NOTICE DEADLINES	CLAIMS/ACTIONS ALLOWED	COMMENTS/EXCEPTIONS	DAMAGE CAPS
ILLINOIS	**State Lawsuit Immunity Act.** 745 I.L.C.S. § 5/1 (1972). State is immune unless legislative exception. **Court of Claims Act.** 705 I.L.C.S. § 505/1. All claims against the State for damages in cases sounding in tort, if like cause of action would lie against a private person or corporation shall be heard before the Court of Claims (7 judges). 705 I.L.C.S. § 505/8.	Tort claims against the State shall be filed within two (2) years from when the claim arose. 705 I.L.C.S. § 505/22.	Tort claims made against the State involving the negligent operation of a State vehicle are to be heard by the Court of Claims and are not limited to the $100,000 cap. 705 I.L.C.S. § 505/8(d).	Illinois' State employees are immune from liability if their act or omission is discretionary in function. *Michigan Ave. Nat. Bank v. Cty. of Cook*, 191 Ill.2d 493, 732 N.E.2d 528 (2000); *Harinek v. 161 N. Clark St. Ltd. P'ship*, 692 N.E.2d 1177 (1998).	Claims for tort damages are limited to $100,000 if it does not involve the operation of a State motor vehicle. 705 I.L.C.S. § 505/8. If State-owned vehicle operated by State employee, no limit.
INDIANA	**Indiana Tort Claims Act.** Governmental entity can be subjected to liability for their own tortious conduct or conduct of their employees acting within the scope of employment, unless the conduct is within an immunity granted by statute. I.C. § 34-13-3-3 (1973).	Claims against the State are barred unless Tort Claims Notice is filed with attorney general or the state agency involved within 270 days after the loss occurs. I.C. § 34-13-3-6. Suit based on breach of express or implied contract must be filed within ten (10) years. Usual statutes of limitation otherwise apply. I.C. § 34-13-1-1.	The defense of sovereign immunity is not available to the State for the negligent operation of its vehicles. *State v. Turner*, 286 N.E.2d 697(1972); 3A Ind. Law Encyc. Automobiles and Motor Vehicles § 123.	There are several exceptions to Indiana's waiver of immunity including: (1) discretionary functions*; (2) the adoption and enforcement of or failure to adopt and enforce a law; and (3) the act or omission of anyone other than the governmental entity or their employee. See I.C. § 34-13-3-3 for more exceptions. *"*Planning/operational test*" is used. Immunity only if function characterized as "policy decisions that have resulted from a conscious balancing of risks and benefits and/or weighing of priorities." *Peavler v. Bd. of Comm'rs of Monroe Cty.*, 528 N.E.2d 40 (Ind. 1988).	No punitive damages against the State. I.C. § 34-13-3-4. Indiana shall not be liable for more than $300,000 to a single claimant (if before 1/1/06) or $500,000 (if after 1/1/06 and before 1/1/08) or $700,000 (if after 1/1/08) and for a single occurrence, liability shall not exceed $5,000,000. I.C. § 34-13-3-4.

STATE	TORT CLAIMS ACT (None or Citation)	NOTICE DEADLINES	CLAIMS/ACTIONS ALLOWED	COMMENTS/EXCEPTIONS	DAMAGE CAPS
IOWA	**Iowa Tort Claims Act.** The State may be held liable for its negligence and the negligence of its employees while acting with the scope of employment. I.C.A. § 669.5. The State shall defend, indemnify, and hold harmless any employee, against any claim so long as the employee's conduct was not willful or malicious. I.C.A. § 669.21 (1965).	Claims against the State are barred unless notice is provided in writing within two (2) years of the claim. I.C.A. § 669.13.	Iowa shall be liable to the same extent as a private individual under like circumstances. I.C.A. § 669.4. This includes the negligence of the State or its employees acting under the scope of employment while operating a motor vehicle. *Swanger v. State,* 445 N.W.2d 344 (Iowa 1989); *Starlin v. State*, 450 N.W.2d 257 (Iowa Ct. App. 1989).	A governmental entity is entitled to immunity only to the extent permitted by statute. *Walker v. State*, 801 N.W.2d 548 (Iowa 2011). Iowa retains immunity for claims arising out of: (1) acts or omissions of a State employee in the execution of a statute; (2) discretionary functions; and (3) any claim arising out of assault, battery, false imprisonment, misrepresentation. See I.C. § 669.14 for more exceptions.	No punitive damages against the State. I.C. § 669.4.
KANSAS	**Kansas Tort Claims Act.** K.S.A. §§ 75-6101 - 75-6120 (1979). Governmental entity liable for negligence unless exception in Act. *Harris v. Werholtz*, 260 P.3d 101 (Kan. Ct. App. 2011).	None. One case stretches the 120 day notice requirement for claims against municipalities to also apply for claims against the State. *Christopher v. State ex rel. Kansas Juvenile Justice Auth*., 143 P.3d 685 (2006).	Governmental entities shall be liable for damages caused by a negligent act or omission of any of its employees while acting within the scope of employment under circumstances where a private person, would be liable. K.S.A. § 75-6103.	No liability for: (1) legislative functions; (2) judicial functions; (3) failure to enforce a law; (4) failure to exercise or perform a *discretionary* function or duty on the part of a governmental entity or employee. See K.S.A. § 75-6104 for more exceptions. "Discretionary function" means more than use of judgment. Must involve element of policy formation. *Clark v. Thomas,* 505 F.Supp.2d 884 (D. Kan. 2007).	State's liability shall not exceed $500,000 for claims arising out of a single occurrence or accident. Governmental entity or its employees acting within the scope of employment shall not be liable for punitive damages. K.S.A. § 75-6105.

STATE	TORT CLAIMS ACT (None or Citation)	NOTICE DEADLINES	CLAIMS/ACTIONS ALLOWED	COMMENTS/EXCEPTIONS	DAMAGE CAPS
KENTUCKY	**Kentucky Board of Claims Act.** The Board of Claims has jurisdiction over civil actions brought against the Commonwealth, its agencies, officers, and employees, while acting within the scope of their employment. K.R.S. §§ 44.070 and 44.072 (1986).	All claims must be filed with the Board of Claims within one (1) year from the time the claim for relief accrued. K.R.S. § 44.110.	The Board is empowered "to investigate, hear proof, and to compensate persons for damages sustained to either person or property as a proximate result of negligence on the part of the Commonwealth (includes employees' negligence in operating a motor vehicle). *Johnson v. Kentucky State Police*, 2010 WL 2788156 (Ky. Ct. App. 2010). The Board of Claims does not have jurisdiction over claims made against State employees in their individual capacity. *Spillman v. Beauchamp*, 362 S.W.2d 33 (Ky. 1962).	The Board of Claims preserves sovereign immunity for acts involving: (1) discretionary acts or decisions; (2) executive decisions; (3) ministerial acts; (4) actions in the performance of obligations running to the public as a whole; (5) governmental performance of a self-imposed protective function to the public or citizen; and (6) administrative acts. K.R.S. § 44.073.	Jurisdiction of the Board is exclusive, and a single claim may not exceed $200,000. If a single act results in multiple claims, the total award may not exceed $350,000, equally divided among the claimants, but no one claimant may receive more than $200,000. K.R.S. § 44.070.
LOUISIANA	**Louisiana Governmental Claims Act.** La. R.S. §§ 13:5101- 5113 (1975). The State, a State agency, or a political subdivision shall not be immune from suit and liability for injury to person or property. La. Const. Art. XII, § 10.	Suit must be brought in Louisiana State Court. La. R.S. § 13:5106. The notice deadline for a suit against the State is the equal to the normal statute of limitations for that type of claim. La. R.S. § 13:5108.	In order for a State employee to be a "covered individual", they must present the Attorney General with a copy of the complaint, who will then determine whether the individual was within their scope of employment during the cause of action. La. R.S. § 13:5108.1. The State will be liable for the negligent operation of a motor vehicle by an employee or officer done within the scope of their employment. *Fullilove v. U.S. Cas. Co. of N.Y.*, 129 So.2d 816 (La. Ct. App. 1961); La. Civ. Code. Art. 2317.	Liability shall not be imposed on public entities or their officers or employees based upon the exercise or the failure to exercise their policymaking or discretionary acts when such acts are within the scope of their lawful powers and duties except for acts not reasonably related to governmental objectives and acts which constitute criminal, fraudulent, or intentional misconduct. La. R.S. § 9:2798.1.	$500,000 per person for personal injury or wrongful death. La. R.S. § 13:5106(B). Money for medical care post-judgment placed in reversionary trust which goes back to political subdivision if not used. La. R.S. § 13:5106(B)(3).

STATE	TORT CLAIMS ACT (None or Citation)	NOTICE DEADLINES	CLAIMS/ACTIONS ALLOWED	COMMENTS/EXCEPTIONS	DAMAGE CAPS
MAINE	**Maine Tort Claims Act.** M.R.S.A., Tit. 14, §§ 8101 – 8118 (1977). Except as otherwise provided in the statutes, all governmental entities are immune from suit on any and all tort claims seeking recovery of damages. If immunity is removed by the Tort Claims Act, a claim for damages must be brought subject to the limitations contained in the Act. M.R.S.A., Tit. 14, § 8103.	Every claim against a governmental entity or its employees is forever barred unless an action therein is begun within two years after the cause of action accrues. M.R.S.A., Tit. 14, § 8110. Written notice shall be filed within 180 days after any claim or cause. M.R.S.A., Tit. 14, § 8107.	A governmental entity is liable for its negligent acts or omissions in its ownership, maintenance or operation of: (1) motor vehicle; (2) unimproved land; and (3) land, buildings, structures, facilities or equipment designed for use primarily by the public. See M.R.S.A., Tit. 14, § 8104-A.	Except as otherwise expressly provided by statute, all governmental entities shall be immune from suit on any and all tort claims. Me. Rev. Stat. Tit. 14, § 8103. A governmental entity is not liable for any claim which results from: (1) legislative acts; (2) judicial acts; (3) *discretionary* acts (except if the act involves operating a motor vehicle). See M.R.S.A., Tit. 14, § 8104-B for more exceptions.	$400,000 per single occurrence. M.R.S.A., Tit. 14, § 8105. Except as otherwise provided, personal liability of an employee is limited to $10,000 for any such claims arising out of a single occurrence. M.R.S.A., Tit. 14, § 8104-D. No judgment against governmental entity shall include punitive damages. M.R.S.A., Tit. 14, § 8105.

STATE	TORT CLAIMS ACT (None or Citation)	NOTICE DEADLINES	CLAIMS/ACTIONS ALLOWED	COMMENTS/EXCEPTIONS	DAMAGE CAPS
MARYLAND	**Maryland Tort Claims Act.** Md. Code. Ann., State Gov't §§ 12-101 - 12-110. The immunity of the State and of its units is waived as to a tort action, in a court of the State. Md. Code, State Gov't § 12-104 (1984).	A claimant may not institute an action against the State unless: (1) the claimant submits a written claim to the Treasurer within one year; (2) the Treasurer or designee denies the claim; or (3) the cause of action is filed within three years after it arises. Md. Code, State Gov't § 12-106.	Immunity of the State is waived for tortious acts of State personnel while acting within the scope of public duties which shall include, but not be limited to: (1) any authorized use of a State-owned vehicle by State personnel, including, but not limited to, commuting to and from the place of employment; (2) services (defined by § 12-101) to third parties performed by State personnel in the course of participation in an approved clinical training or academic program. Md. Code, Cts. & Jud. Proc. § 5-522.	Immunity of the State is not waived for any tortious act or omission of State personnel that: (1) is not within the scope of the public duties of the State personnel; or (2) is made with malice or gross negligence. Md. Code, Cts. & Jud. Proc. § 5-522.	The liability of the State and its units may not exceed $400,000 to a single claimant for injuries arising from a single incident or occurrence. Md. Code, State Gov't § 12-104. The State and its officers and units are not liable for punitive damages. Md. Code, Cts. & Jud. Proc. § 5-522.
MASSACHUSETTS	**Massachusetts Tort Claims Act.** M.G.L.A. Ch. 258, § 2 to § 14 (1978).	Claim must be presented in writing within two years after the date upon which the cause of action arose. M.G.L.A. Ch. 258, § 4.	State shall be liable for injury or loss of property caused by the negligent or wrongful act or omission of any public employee while acting within the scope of employment, in the same manner and to the same extent as a private individual under like circumstances. M.G.L.A. Ch. 258, § 2.	The State shall not be liable for any claim based upon an act or omission: (1) in the execution of a statute; (2) discretionary acts; or (3) arising out of an intentional tort, assault, libel, slander, or misrepresentation. See other exceptions at M.G.L.A. 258, § 10. Tort Claims Act is not to be construed restrictively for motor vehicles. Cop driving vehicle owned and registered to State, caused accident while "on call." Tort Claims Act was ruled not to apply since cop was not acting within scope of employment. *Clickner v. City of Lowell*, 663 N.E.2d 852 (1996).	State not liable for interest prior to judgment or for punitive damages. Liability of the State shall not exceed $100,000. M.G.L.A. Ch. 258, § 2. Claims against the Massachusetts Bay Transportation Authority are not subject to the $100,000 limit. M.G.L.A. Ch. 258, § 2.

STATE	TORT CLAIMS ACT (None or Citation)	NOTICE DEADLINES	CLAIMS/ACTIONS ALLOWED	COMMENTS/EXCEPTIONS	DAMAGE CAPS
MICHIGAN	**Governmental Tort Liability Act.** M.C.L.A. §§ 691.1401 through 1419 (1986). Governmental agency (including state) is immune if engaged in a *governmental* function (activity mandated or authorized by constitution, statute, local charter or ordinance, or other law). M.C.L.A. §§ 691.1407(1). Governmental immunity is to be broadly construed, unless a narrowly drawn exception applies in a claim. *Nawrocki v Macomb County Road Comm.,* 615 N.W.2d 702 (Mich. 2000).	Notice of claim must be filed within 120 days and served on the municipal employee appointed to accept service of complaints, (extended up to 180 days if disability). Substantial compliance is okay. M.C.L.A. § 600.1404. All claims must be filed with the Clerk of the Court of Claims within one year after such claim has accrued. M.C.L.A. § 600.6431. Court of Claims has exclusive jurisdiction over claims made against the State. M.C.L.A. § 600.6419**.**	The State is immune from tort liability if engaged in the exercise or discharge of a *governmental* function. A State employee will be immune from tort liability if: (1) acting or reasonably believes they are acting within the scope of employment; (2) the governmental agency is engaged in the exercise of a governmental function; or (3) does not involve gross negligence or an intentional act. M.C.L.A. § 691.1407. Immunity does not apply when engaged in a *proprietary* function (any activity which is conducted primarily for the purpose of producing a pecuniary profit for the governmental agency). M.C.L.A. § 691.1413.	Specific exceptions to immunity: (1) maintenance of public highways (knew or should have known of defect), M.C.L.A. § 691.1402; (2) negligent operation of a government-owned motor vehicle,* M.C.L.A. § 691.1405; (3) public building defects, M.C.L.A. § 691.1406; (4) performance of proprietary functions by government entities, M.C.L.A. § 691.1413; (5) medical care or treatment provided to a patient, M.C.L.A. § 691.1407(4); and (6) sewage disposal system events, M.C.L.A. § 691.1417. *Municipal employee's personal liability when driving his own vehicle or the municipality's vehicle is restricted to actions found to be "grossly negligent." *Alex v. Wildfong,* 594 N.W.2d 469 (Mich. 1999).	None Punitive damages are generally not recoverable unless authorized by statute. *Casey v. Auto Owners Ins. Co.,* 729 N.W.2d 277 (2006).
MINNESOTA	**Minnesota Tort Claims Act.** M.S.A. § 3.736 (1976).	Notice is required within 180 days after the alleged loss or injury is discovered. M.S.A. § 3.736.	State will pay for property damage or personal injury caused by an act or omission of a State employee while acting within scope of employment under circumstances where the State, if a private person, would be liable to the claimant, whether arising out of a governmental or proprietary function. M.S.A. § 3.736.	The State and its employees are not liable for losses caused by: (1) an act or omission of a state employee exercising due care in the execution of a statute or rule; (2) discretionary functions; or (3) conditions of highways or public buildings, except if caused by employee negligence. See M.S.A. § 3.736 for other exclusions.	$500,000 per person; $1,500,000 per occurrence after July 1, 2009. M.S.A. § 3.736. No punitive damages. If liability insurance, limits of insurance are the maximum. M.S.A. § 3.736.

STATE	TORT CLAIMS ACT (None or Citation)	NOTICE DEADLINES	CLAIMS/ACTIONS ALLOWED	COMMENTS/EXCEPTIONS	DAMAGE CAPS
MISSISSIPPI	**Mississippi Tort Claims Act.** M.C.A. §§ 11-46-1 through 11-46-23 (1984). State waives immunity for tort and contract claims, subject to statutory exceptions. M.C.A. § 11-46-5.	Notice of claim must be filed with chief executive officer of the governmental entity at least 90 days before instituting suit. M.C.A. § 11-46-11(1). Suit must be commenced within one (1) year after the date of the tort. M.C.A. § 11-46-11(3). Bodily injury and property claims must be brought within three (3) years after injury is discovered. M.C.A. § 11-15-49.	The immunity of the State and its political subdivisions from claims arising out of the torts of such governmental entities and the torts of their employees while acting within the scope of their employment is hereby waived. M.C.A. § 11-46-5.	The State and its employees preserve their immunity for claims caused by: (1) a legislative or judicial action or inaction; (2) an act or omission of a State employee exercising due care in the execution of a statute or rule; (3) police/fire protection (unless reckless); (4) *discretionary* function (official required to use judgment or discretion). See M.C.A. § 11-46-9 for other exceptions. Immunity will not be granted to a State employee when they negligently operate a motor vehicle outside of a *discretionary* function. *Mixon v. Mississippi Dep't of Transp.,* 183 So.3d 90 (Miss. Ct. App. 2015).	The State's liability shall not exceed $500,000 for all claims arising out of a single occurrence. The State will not pay punitive damages. M.C.A. § 11-46-15.
MISSOURI	**Missouri Tort Claims Act.** Mo. Stat. §§ 537.600 - 537.650 (1978). Tort immunity not waived.	Claims against the State shall be brought to the Commissioner of Administration, for approval, within two years after such claim accrues. Mo. Stat. § 33.120.	The immunity of the State is waived in these instances: (1) injuries resulting from State employee's negligent act or omission while operating a motor vehicle within the scope of employment; (2) injuries caused by the dangerous condition of a State-owned property; and (3) Contract claims. Mo. Stat. § 537.600; *Kunzie v. City of Olivette*, 184 S.W.3d 570 (Mo. 2006).	The Commissioner of Administration and the governing body of each political subdivision of the State may purchase liability insurance for tort claims, made against the State or the political subdivision. Immunity is waived up to the extent of the coverage provided in the policy or self-insurance plan. Mo. Stat. § 537.610.	Claims shall not exceed $2,000,000 for claims arising out of a single occurrence and shall not exceed $300,000 for any one person in a single accident or occurrence. The State will not pay punitive damages. Mo. Stat. § 537.610.

STATE	TORT CLAIMS ACT (None or Citation)	NOTICE DEADLINES	CLAIMS/ACTIONS ALLOWED	COMMENTS/EXCEPTIONS	DAMAGE CAPS
MONTANA	**Montana Tort Claims Act.** Mont. Stat. §§ 2-9-101 through 2-9-114 (1973).	Complaint must first be presented in writing to Department of Administration. The Department must grant or deny the claim within 120 days. Upon receipt of the claim, the statute of limitations is tolled for 120 days. Mont. Stat. § 2-9-301.	State is subject to liability for its torts and those of its employees acting within the scope of employment or duties whether arising out of a governmental or proprietary function. Mont. Stat. § 2-9-102.	The State shall not be liable for certain legislative, judicial, and gubernatorial actions. Mont. Stat. §§ 2-9-111 through 2-9-113. See Mont. Stat. § 2-9-108 for other exceptions.	The State is not liable for tort claims in excess of $750,000 for each claim and $1.5 million for each occurrence. Mont. Stat. § 2-9-108. The State and other governmental entities are immune from exemplary and punitive damages. Mont. Stat. § 2-9-105.
NEBRASKA	**Nebraska Tort Claims Act.** Neb. Rev. Stat. §§ 81-8,209 - 81-8,239.11 (1969).	Claims shall be forever barred unless the claim is made in writing to the Risk Manager within two years after such claim accrued. Neb. Rev. Stat. § 81-8,227.	The State shall be liable in the same manner and to the same extent as a private individual under like circumstances. Neb. Rev. Stat. § 81-8,215. Injury to any innocent third party proximately caused by the action of a law enforcement officer employed by the State during vehicular pursuit, damages shall be paid to such third party by the State employing the officer. Neb. Rev. Stat. § 81-8,215.01.	The State does not waive its immunity for claims involving: (1) a discretionary function or due care in the execution of a statute; or (2) assault, battery, false imprisonment, or misrepresentation. See Neb. Rev. Stat. § 81-8,219 for other exceptions.	None

STATE	TORT CLAIMS ACT (None or Citation)	NOTICE DEADLINES	CLAIMS/ACTIONS ALLOWED	COMMENTS/EXCEPTIONS	DAMAGE CAPS
NEVADA	**Nevada Tort Claims Act.** N.R.S. §§ 41.031 through 41.0337 (1965).	A claim must be filed with the Attorney General within two years after the cause of action accrues. Filing a claim is not a condition precedent to bringing an action against the State. N.R.S. § 41.036.	Nevada hereby waives its immunity from liability and action and consents to have its liability determined in accordance with the same rules of law as are applied to civil actions against natural persons, except as otherwise provided. N.R.S. § 41.031.	No action may be brought against the State or its employees which are based upon: (1) an act or omission of an officer or employee exercising due care, in the execution of a statute, or in the performance of a discretionary act; (2) failure to inspect any building, structure, vehicle, street, public highway or other public work, to determine any hazards, deficiencies or other matters, whether or not there is a duty to inspect; (3) an injury sustained from a public building or public vehicle by a person who was engaged in any criminal act. N.R.S. § 41.032, § 41.033 and § 41.0334.	Damages against the State may not exceed the sum of $100,000. The State will not pay punitive damages. N.R.S. § 41.035.
NEW HAMPSHIRE	**Claims Against the State.** N.H. Rev. Stat. §§ 541-B:1 to 541-B:23 (1985). Sovereign immunity deeply entrenched. *Krzysztalowski v. Fortin*, 230 A.2d 750 (N.H. 1967).	Suit against State must be commenced within three years. Written notice must be presented to the agency within 180 days of the injury. N.H. Rev. Stat. § 541-B:14. Claims made against the State for less than $5,000 are to be heard by the Board of Claims for the State. Any claim against the State in excess of $5,000 shall be heard by the Superior Court.	State generally waives its immunity to tort liability. N.H. Rev. Stat. § 541-B:2, § 541-B:9, § 541-B:9-a. Immunity also waived as to contract liability. N.H. Rev. Stat. § 491:8. A claim against the State for the negligent use of a motor vehicle is allowed since the State has purchased insurance. *State v. Brosseau*, 470 A.2d 869 (1983).	State does not waive its immunity for claims involving: (1) the exercise of a legislative or judicial function; (2) an act or omission of a State employee, or official when exercising due care in the execution of any statute; (3) *discretionary* function (involves executive or planning function); and (4) an intentional tort, assault, libel, slander, misrepresentation. N.H. Rev. Stat. § 541-B:19.	All claims arising out of single incident shall be limited to an award not to exceed $475,000 per claimant and $3,750,000 per any single incident, or the proceeds from any insurance policy, whichever amount is greater. The State will not pay punitive damages. N.H. Rev. Stat. § 541-B:14.

STATE	TORT CLAIMS ACT (None or Citation)	NOTICE DEADLINES	CLAIMS/ACTIONS ALLOWED	COMMENTS/EXCEPTIONS	DAMAGE CAPS
NEW JERSEY	**New Jersey Tort Claims Act.** N.J.S.A. §§ 59:1-1 through 59:12-3 (1972). "Public entity" includes all counties, municipalities, districts, and other political subdivisions. N.J.S.A. § 59:1-3. Immunity waived. A "public entity" is liable for injury caused by an act or omission of a public employee in the same manner and to the same extent as a private individual unless there is exception in Act. N.J.S.A. § 59:2-2.	A claim against a "public entity" for death or for injury or damage to person or to property shall be presented not later than the 90th day after accrual of the cause of action. Six (6) months after notice has been received, suit may be filed. Suit must be filed within two (2) years after the date of accrual. N.J.S.A § 59:8-8.	Public entity liable for: • Condition of property if dangerous condition and failure to take action "palpably unreasonable." N.J.S.A. § 59:2-3. • Sewer back up if maintenance program was palpably unreasonable or negligence in performance. • *Ministerial* or *operational* functions. Negligent operation of motor vehicle. *Gruschow v. New Jersey State Highway Dep't*, 152 A.2d 150 (N.J. App. 1959).	Limitations on liability: • A *discretionary* function (involves policy judgment or determining resources or when or whether to purchase equipment, construct or maintain facilities, hire personnel or provide adequate services). N.J.S.A. § 59:2-3. • Adopting or failing to adopt a law or by failing to enforce any law. N.J.S.A. § 59:2-4. • Failure to make an inspection, or negligent inspection of any property. N.J.S.A. § 59:2-6. • Crime, actual fraud, actual malice, or willful misconduct. N.J.S.A. § 59:2-10. • Discretion in decision-making or prioritizing needs when faced with budgetary issues. See N.J.S.A. § 59:2-5 for other exceptions.	No Dollar Caps No subrogation allowed against "a public entity or public employee." N.J.S.A. § 59:9-2(e). No recovery for pain and suffering, but this limitation on recovery unless permanent loss of bodily function, permanent disfigurement or dismemberment when medical expenses are in excess of $3,600. Punitive damages cannot be awarded. N.J.S.A. § 59:9-2 (c) and (d).

STATE	TORT CLAIMS ACT (None or Citation)	NOTICE DEADLINES	CLAIMS/ACTIONS ALLOWED	COMMENTS/EXCEPTIONS	DAMAGE CAPS
NEW MEXICO	**Tort Claims Act.** N.M.R.A. §§ 41-4-1 through 41-4-30 (1976).	Written notice must be provided within 90 days after the occurrence. N.M.R.A. § 41-4-16. Action against the State must be brought within two years after the occurrence. N.M.R.A. § 41-4-15.	Tort Claims Act shields the State and public employees from liability for torts except when immunity is specifically waived. N.M.R.A. §§ 41-4-1 and 41-4-4.	Exclusions to the Tort Claims Act include: (1) negligence of public employees within the scope of their duties in the operation or maintenance of any motor vehicle, aircraft or watercraft (N.M.R.A. § 41-4-5); and (2) negligence of public employees within the scope of their duties in the operation or maintenance of any building, public park, machinery, equipment or furnishings (N.M.R.A. § 41-4-6). See N.M.R.A. §§ 41-4-4 through 41-4-12 for other exceptions.	Liability of State for a single occurrence shall not exceed: (1) $200,000 for damage to or destruction of real property; (2) $300,000 for past and future medical expenses; (3) $400,000 for all damages other than real property damage and medical expenses; and (4) total liability for a single occurrence shall not exceed $750,000. State will not pay punitive damages. N.M.R.A. § 41-4-19.

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NEW YORK	**New York Court of Claims Act.** N.Y. Ct. Cl. Act §§ 8 – 12 (1929). State waives immunity and consents to being sued in the same manner as a private person would, so long as requirements of the Court of Claims Act are complied with. Parallel statute deals with Port Authority almost identically. N.Y. Unconsol. Law §§ 7101 to 7112.	Written notice of intention to file claim must be filed and served on Attorney General within 90 days (6 months for breach of contract claims). N.Y. Ct. Cl. Act § 10. Specific requirements for filing claim. N.Y. Ct. Cl. Act § 11. Court of Claims has exclusive jurisdiction over claims against State but not city, county or town.	State immune when performing *governmental* act (legislating, judging, or making *discretionary* decisions) as opposed to *proprietary* act (act substitutes for or supplement traditionally private enterprises). Proprietary acts include: • Rents real property; • Health care; • Operating school; and • Operating vehicle. *Morell v. Balasubramanian*, 514 N.E.2d 1101 (1987).	If *governmental* act involved, no liability even if there was malice or *special duty* owed to plaintiff as opposed to mere public duty (Public Duty Defense). Special duty formed in three ways: (1) Statute for class of persons; (2) Assumption of duty toward person (most common); and (3) Assume direction and control in face of known safety violation. If *ministerial* act, plaintiff must still show a special duty existed. *McLean v. City of New York*, 905 N.E.2d 1167 (N.Y. App. 2009) (duty trumps all else). If *governmental* act and *special duty* exists, no immunity if act was *ministerial*. If discretionary, government must actually have exercised its discretion to be immune.	None No punitive damages allowed. *Wang v. N.Y. State Dep't of Health*, 933 N.Y.S.2d 503 (N.Y. Sup. Ct. 2011).
NORTH CAROLINA	**North Carolina Tort Claims Act.** N.C.G.S.A. § 143-291 (1951).	Claims against the State must be filed with Industrial Accident Commission within three (3) years of the accident. If death results, claim must be filed within two years by personal representative of the deceased. N.C.G.S.A. § 143-299.	The Tort Claims Act covers all claims arising as a result of the negligence of any officer, employee, involuntary servant, or agent of the State while acting within the scope of his office, employment, service, agency or authority. N.C.G.S.A. § 143-291.	Contributory negligence by the claimant bars recovery under the State Tort Claims Act. N.C.G.S.A. § 143-299.1; *Oates v. N. Carolina Dep't of Motor Vehicles*, 24 N.C. App. 690, 212 S.E.2d 33 (1975). Intentional acts are not compensable. *White v. Trew*, 366 N.C. 360, 736 S.E.2d 166 (2013). Claims are brought before the Industrial Commission, reviewable by Superior Court. N.C.G.S.A. § 143-291.	Claim for Injury and damage to any one person capped at $1,000,000 less any commercial liability insurance purchased by the State that is applicable to the claim. N.C.G.S.A. § 143-299.2.

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NORTH DAKOTA	**Claims Against The State.** N.D.C.C. §§ 32-12.2-01 to 32-12.2-18 (1995).	Suit against State must be commenced within three years. N.D.C.C. § 32-12.2-02. Written notice must be presented in writing to the Director of the Office of Management and Budget within 180 days. N.D.C.C. § 32-12.2-04.	State waives immunity for both tort and contract claims. State liable for an injury caused by: (1) negligence of employee acting within scope of employment (including operating motor vehicles); or (2) use or condition of tangible property, if employee would be personally liable if a private person would be liable under the circumstances. N.D.C.C. § 32-12.2-02. Employee cannot be personally liable. This includes operation of a motor vehicle. N.D.C.C. § 32-12.2-03.	N.D.C.C. § 32-12.2-02(3) lists claims for which a State employee is not liable. (*e.g.,* legislative, quasi-legislative, public duties, collection of taxes, environmental contamination, liability assumed under contract except for rental vehicles, etc.).	Recovery limited to a total of $250,000 per person and $1,000,000 for any number of claims arising from a single occurrence and prohibits punitive damages in actions against the State. N.D.C.C. § 32-12.2-02.

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OHIO	**Court of Claims.** Ohio Rev. Code §§ 2743.01 - .03 (1985). Court of Claims – Practice and Procedure. Ohio Rev. Code §§ 2743.11 to 2743.20.	Plaintiff must attempt to have claim compromised or satisfied by the State's liability insurance. If State does not compromise within a reasonable time (at least 60 days) before SOL expires, or if the amount of the claim exceeds the State's liability insurance coverage, plaintiff may commence an action. Ohio Rev. Code Ann. § 2743.16(B). Two (2) year statute of limitations on actions against State. Ohio Rev. Code § 2743.16(A).	State waives immunity and consents to be sued and have its liability determined in the Court of Claims by the same rules as a suit between private parties. Ohio Rev. Code § 2743.02(A)(1). Claims allowed against State for negligence operation of motor vehicle driven by State employee, even if driving own personal vehicle. Ohio Rev. Code § 2743.16(B). State employee cannot be sued personally unless not in scope of employment.	No jury trial in Court of Claims. Ohio Rev. Code § 2743.11; Loc.R. 6 of the Court of Claims. Settlements must be approved by Attorney General and the Court of Claims. Ohio Rev. Code § 2743.16. State immune from liability for claims arising out of the performance or nonperformance of a public duty. Ohio Rev. Code § 2743.02(3)(a). Subrogation claims not permitted. Ohio Rev. Code § 2744.05(B).	No subrogation claims. Damages reduced by other collateral source recoveries received by the claimant. Ohio Rev. Code § 2743.02(D). No Punitive Damages State may, but is not required to, insure its employees for operation of motor vehicles. Any such insurance must be provided by the Department of Administrative Services (DAS) through the Office of Risk Management (ORM). Ohio Rev. Code § 9.83.

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OKLAHOMA	**Oklahoma Governmental Tort Claims Act.** 51 Okla. Stat. § 151 – 200 (1978). 51 Okla. Stat. § 152.1(A) adopts sovereign immunity. 51 Okla. Stat. § 152.1(B) waives immunity as provided in the Act.	Notice of claim within one (1) year after loss. 51 Okla. Stat. § 156(B). Notice filed CMRRR with Risk Management Administrator of the Office of Public Affairs. 51 Okla. Stat. § 156(C). Suit may be filed once claim denied (deemed denied if not approved within 90 days). Plaintiff has 180 days after 90-day period to file. 51 Okla. Stat. § 157.	State employee acting in scope of employment is liable for loss unless falls under exceptions (General Waiver of Immunity). 51 Okla. Stat. § 152.1(A). No subrogation claims allowed against State. 51 Okla. Stat. § 155(28). Liable for operation of motor vehicles. However, liability limited to amount of liability insurance purchased. 51 Okla. Stat. §§ 157.1-158.2.	Thirty-seven (37) exceptions where State not liable for torts of State employees acting in scope of employment: (1) legislative functions; (2) discretionary acts such as policy decisions (limited). "Planning-operational" approach to understanding the scope of this exception to liability; (3) natural snow or ice conditions; (4) absence, condition, location or malfunction of traffic sign unless not corrected within reasonable time after notice; (5) subrogation claim; and (6) any loss to person covered by workers' compensation. See 51 Okla. Stat. § 155 for more exceptions.	**Property Claims:** $25,000. **Other Losses**: $175,000 per person. ($200,000 for medical negligence). $1 million per occurrence. 51 Okla. Stat. § 154(A). No punitive damages. Several liability only. 51 Okla. Stat. § 154. If insurance, policy terms govern rights and obligations of State. 51 Okla. Stat. § 158. No subro claims. Okla. Stat. § 155(28).

STATE	TORT CLAIMS ACT (None or Citation)	NOTICE DEADLINES	CLAIMS/ACTIONS ALLOWED	COMMENTS/EXCEPTIONS	DAMAGE CAPS
OREGON	**Tort Actions Against Public Bodies (a/k/a Oregon Tort Claims Act).** O.R.S. §§ 30.260 - 30.300 (1967).	Action must be commenced within two (2) years. O.R.S. § 30.275(9). Notice of claim to the office of the Director of the Oregon Department of Administrative Services within 180 days. No particular form for notice. Provide time, place, circumstances, damages, contact information. O.R.S. § 30.275.	Oregon Tort Claims Act is limited waiver of sovereign immunity. Every public body subject to liability for its employees' and agents' torts committed within the scope of their employment, including operation of motor vehicles. O.R.S. § 30.275.	Exceptions to liability: (1) injury covered by workers' compensation; (2) exercise of *discretionary* function* or duty; and (3) act under apparent authority of law. O.R.S. § 30.265(6). **Discretionary* function is policy-making decision (policy judgment). Negligent implementation of policy is not immune. No immunity if duty to act.	**Personal Injury:** $2,073,600 Per Person. $4,147,100 Per Occurrence. **Property Damage:** $113,400 Per Person. $566,900 Per Occurrence. O.R.S. §§ 30.271(4), 30.272(4), 30.273(3). Claims which are subject to the OTCA are not subject to O.R.S. § 30.710, setting limit of $500,000 for non-economic damages in civil actions. O.R.S. § 30.269(2).

STATE	TORT CLAIMS ACT (None or Citation)	NOTICE DEADLINES	CLAIMS/ACTIONS ALLOWED	COMMENTS/EXCEPTIONS	DAMAGE CAPS
PENNSYLVANIA	**Pennsylvania Sovereign Immunity Act.** 42 Pa. C.S. § 8501, *et seq.* (1988). Commonwealth Court has jurisdiction over civil actions brought against the "Commonwealth government" with four specific exceptions. 42 Pa. C.S. § 761.	Notice of Intention to Make Claim against "Commonwealth Party" must be made within six months after cause of action accrued. 42 Pa. C.S. § 5522. No notice needed where "dangerous condition" of real estate, highways, and sidewalks. Potholes require actual written notice and time to fix. 42 Pa. C.S. § 5522(a)(3).	Sovereign Immunity Act waives Commonwealth immunity for damages arising out of a negligent act where the damages would be recoverable by private person. 42 Pa. C. S. § 8522(a). It includes: (1) motor vehicle operation; (2) medical profession; (3) care, custody, control of personal property; (4) real estate, highways, sidewalks; (5) potholes and dangerous conditions; (6) control of animals; and (7) vaccines. Pa. C.S. § 8522(b).	Exceptions to sovereign immunity. Plaintiff cannot recover under motor vehicle exception if fleeing apprehension of resisting arrest by a police officer. 42 Pa. C.S. §§ 8522(b) and 8542(b). No property damage recoverable under potholes and dangerous conditions. 42 Pa. C.S. § 8528(c)(5).	$250,000 Per Person. $1,000,000 Per Occurrence. Can only recover: (1) past and future loss of earnings; (2) pain and suffering; (3) medical expenses; (4) loss of consortium; and (5) property losses. 42 Pa. C.S. § 8528.

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RHODE ISLAND	**Governmental Tort Liability Act.** R.I.G.L. § 9-31-1 (1970). State liable for all *actions of tort* in the same manner as a private individual or corporation unless exception. R.I.G.L. § 9-31-1.	Three (3) year statute of limitation for any action against State. R.I.G.L. § 9-1-25. Notice of Claim must be given within three (3) years from the date the cause of action accrues. R.I.G.L. § 9-1-25.	State's sovereign immunity as to tort actions and its 11th Amendment immunity both waived. *Laird v. Chrysler*, 460 A.2d 425 (R.I. 1983). Does not apply to proceedings against State before administrative agencies.	There are few conditions on the State's consent to suit. *Marrapese v. State*, 500 F. Supp. 1207 (D. R.I. 1980).	Damages may not exceed $100,000. R.I.G.L. § 9-31-2 (West). Limit not applicable if State was engaged in a proprietary function or has agreed to indemnify the federal government or any agency. R.I.G.L. § 9-31-3. State must secure $75 million insurance policy covering operation of commuter rail service. R.I.G.L. § 9-31-3.
SOUTH CAROLINA	**South Carolina Tort Claims Act.** S.C. Code § 15-78-10, *et seq.* (1986). Limited waiver of sovereign immunity, subject to exceptions. State is liable for torts to the same extent as private individual, subject to limitations. S.C. Code § 15-78-40.	Two (2) year statute of limitations; Three years after Notice of Claim (year added to Statute of Limitations if notice procedure followed). S.C. Code § 15-78-110. Notice setting forth the circumstances, extent of loss, time and place, names of all persons involved, and amount of loss, must be filed within one (1) year. S.C. Code § 15-78-80.	Sovereign immunity waived (State liable) for all torts unless listed under exceptions to waiver of immunity.	Statute lists non-exclusive list of 40 exceptions to the general waiver of State sovereign immunity, including, among others: (1) legislative, judicial actions; (2) discretionary acts; (3) natural snow or ice conditions; (4) authorized entry on property; (5) absence or condition of traffic sign or barrier unless given reasonable notice to repair; (6) claim against DOT allowed for improper maintenance but not faulty design; and (7) any judicial proceeding. S.C. Code § 15-78-60.	$300,000 Per Person $600,000 Per Occurrence No Punitive Damages S.C. Code § 15-78-120.

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SOUTH DAKOTA	**Remedies Against The State.** S.D.C.L. §§ 21-32-1 to 21-32-21 (1947). South Dakota common law and Constitution prohibit that "*governing acts*" of State, its agencies and other public entities can't be attacked in court without the State's consent. S.D. Const. Art. III, § 27; *Blue Fox Bar, Inc. v. City of Yankton,* 424 N.W.2d 915 (S.D. 1988).	Written notice of the time, place, and cause of the injury is given to the *public entity* within 180 days after the injury. S.D.C.L. § 3-21-2.	Whether a State employee, who is sued in an individual capacity, is entitled to immunity depends upon the function performed by the employee. Immune *discretionary* function (involves policy-making power), but not when they perform *ministerial* function ("absolute, certain, and imperative" act simple carrying out of a policy already established).* *Wulf v. Senst*, 669 N.W.2d 135 (S.D. 2003). *<u>Even if discretionary function involved</u>: State may purchase liability insurance. S.D.C.L. § 21-32-15. Purchase of insurance waives immunity and is consent to be sued. S.D.C.L. § 21-32-16. State and its employees immune except as provided in § 21-32-16; S.D.C.L. § 21-32-17.	Factors to be considered in determining a *discretionary* function include: (1) nature and importance; (2) extent to which passing judgment on exercise of discretion passes judgment on branch of government; (3) would liability impair free exercise of discretion?; (4) likelihood of harm to members of public if action taken; (5) nature and seriousness of harm; and (6) availability of other remedies. <u>*Discretionary*</u>: Highway construction and Maintenance; Allocating plows, resource and equipment for snow removal. <u>*Ministerial*</u>: Once it is determined that act should be performed, subsequent performance is ministerial. (*e.g.,* operating motor vehicle). No immunity for breach of contract claims. *Masad v. Weber*, 772 N.W.2d 144 (S.D. 2009). S.D.C.L. § 21-32-1 establishes the Office of Commissioner of Claims, which hears contract and tort claims against the State.	None

STATE	TORT CLAIMS ACT (None or Citation)	NOTICE DEADLINES	CLAIMS/ACTIONS ALLOWED	COMMENTS/EXCEPTIONS	DAMAGE CAPS
TENNESSEE	**None applicable to the State.** Tennessee Claims Commission created to hear and adjudicate claims against State. T.C.A. §§ 9-8-301 to 307 (1984). Established State's liability in tort based on traditional concepts of duty and reasonably prudent persons' standard of care. Act restricts State to the defense of absolute immunity only as an exception to Act's broad abrogation of sovereign immunity. *Lucas v. State*, 141 S.W.3d 121 (Tenn. App. 2004).	Written notice of claim must be filed (on Claim For Damages Form) with Division of Claims Administration (DCA) within applicable statute of limitations. DCA has 90 days to approve or deny. Then that jurisdiction transfers to Tennessee Claims Commission. T.C.A. § 9-8-402.	Claims Commission has exclusive jurisdiction to hear claims against State, it is limited to those claims listed in § 9-8-307(a). Common law negligence rules apply. Otherwise State is immune. Claims allowed: (1) operation of motor vehicle; (2) nuisances; (3) dangerous conditions on real property (foreseeable and notice); (4) legal/medical malpractice; (5) negligent care of persons or property; (6) negligent construction of sidewalks/buildings; (7) design and construction of roads; (8) highway conditions; (9) negligent operation of Machinery; and (10) many others.	Purchase of liability insurance does not waive sovereign immunity. 1984 Tenn. Pub. Acts 972; Op. Tenn. Atty. Gen. 85-087 (1985). Tennessee Governmental Tort Liability Act (§ 9-8-307) not applicable to State. *Lucas v. State*, 141 S.W.3d 121 (Tenn. App. 2004). If State is liable, employee is immune, unless outside scope of employment, intentional, or done for personal gain. T.C.A. § 29-20-310(b).	$300,000 for bodily injury or death of any one person in any one accident, occurrence or act. $700,000 for bodily injury or death of all persons in any one accident. T.C.A. § 9-8-307(3)(e). No Punitive Damages *Bowden Bldg. Corp. v. Tennessee Real Estate Comm'n*, 15 S.W.3d 434, 446 (Tenn. App. 1999). If claim exceeds $25,000, Tennessee Claims Administration turns it over to State Attorney General to investigate.

STATE	TORT CLAIMS ACT (None or Citation)	NOTICE DEADLINES	CLAIMS/ACTIONS ALLOWED	COMMENTS/EXCEPTIONS	DAMAGE CAPS
TEXAS	**Texas Tort Claims Act (TTCA).** Tex. Civ. Prac. & Rem. Code Ann. §§ 101.001–.109 (1965). Absent a waiver of immunity, governmental entities are generally immune from liability. *University of Tex. Sw. Med. Ctr. v. Estate of Arancibia*, 324 S.W.3d 544 (Tex. 2010). TTCA is a limited waiver of sovereign immunity (qualified immunity) for certain torts. Unless there is a waiver of immunity in the TTCA, there is sovereign immunity. *City of Denton v. Van Page*, 701 S.W.2d 831 (Tex. 1986).	Formal, written notice no later than six months after day the incident occurs, reasonably describing: (1) the damage or injury claimed; (2) the time and place of the incident; and (3) the incident. Tex. Civ. Prac. & Rem. Code Ann. § 101.101(a). "Actual notice" can substitute. Tex. Civ. Prac. & Rem. Code Ann. § 101.101(c).	State's immunity is waived for: (1) use of motor vehicle;* Tex. Civ. Prac. & Rem. Code Ann. § 101.021(1). (2) injury caused by condition or use of tangible personal or real property;** Tex. Civ. Prac. & Rem. Code Ann. § 101.021(2); and (3) claims arising from premises defects. Tex. Civ. Prac. & Rem. Code Ann. § 101.021(2).*** *State only liable if employee operating vehicle would have been liable. **Liable only if private person would have been liable. This precludes suit predicated solely on *respondeat superior*. Involves *activities* conducted on real property, not defects in the real property. ***Claims involving premises liability (defect in real property) brought under this section.	State employees enjoy either absolute immunity (*e.g.,* judges) or qualified immunity (*e.g.,* jailers, sheriffs, and other public officers or employees). State employees' qualified immunity applies only to *discretionary* actions taken in good faith within the scope of the employee's authority. No qualified immunity for *ministerial* (mandatory) actions. State involved in joint enterprise is liable for the torts of other members of the joint enterprise. *Texas Dep't of Transp. v. Able*, 35 S.W.3d 608 (Tex. 2000). TTCA (Tex. Civ. Prac. & Rem. Code Ann. § 101.022) says two additional liability limitations apply: (1) *special defects* (*e.g.,* unusual danger); and (2) *Absence, condition or malfunction of traffic signs*. Tex. Civ. Prac. & Rem. Code Ann. § 101.060.	**Bodily Injury/Death:** $250,000 Per Person $500,000 Occurrence **Damage to Property:** $100,000 occurrence Tex. Civ. Prac. Rem. Code § 101.023.

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UTAH	**Utah Governmental Immunity Act (GIAU).** U.C.A. §§ 63G-7-101 through 63G-7-904 (1963). "Governmental Entity" and its employees retain immunity for all "*governmental functions*" (defined as "activity, undertaking, or operation of a governmental entity") no matter how labelled, unless expressly waived in Act. "Governmental Entity" includes State and all its political subdivisions.	Written Notice of Claim must be filed within one year after denial of claim. U.C.A. §§ 63G-7-401. Within sixty (60) days of filing written Notice of Claim government must approve or deny. Then suit can be brought. U.C.A. §§ 63G-7-401, 402, 403. Plaintiff has one (1) year after denial of claim or after the 60 day period ends to bring the action. Utah Code Ann. §§63-G-7-401, 402, 403.	Governmental entity immune from latent condition of road, tunnel, bridge, sidewalk or any public building or structure. No liability (immunity not waived) for: (1) "discretionary function" (distinct and limited immunity for decision that involves policy-making function); See "*Little* Test" *Little v. Utah*, 667 P.2d 49 (Utah 1983) (*e.g.,* fire fighting). (2) assault, false imprisonment; (3) negligent inspection; (4) judicial proceedings; (5) operation or repair of flood systems; and (6) many others. U.C.A. § 63G-7-201.	Immunity waived as to: (1) any act by employee in scope of employment; (2) contractual obligations; (3) defective, unsafe condition of road, sidewalk, bridge, etc.; (4) defect or condition of building, structure, etc. (U.C.A. § 63G-7-301); and (5) injury or damage resulting from employee driving or being in control of a vehicle. U.C.A. § 63G-7-202(3)(c)(2). Three-part test to determine whether governmental entity enjoys immunity under the Governmental Immunity Act: (1) whether the activity is a governmental function; (2) whether governmental immunity was waived for the particular activity; and (3) whether there is an exception to that waiver. *Winkler v. Lemieux*, 329 P.3d 849 (Utah App. 2014).	**Property Damage:** $233,600. U.C.A. § 63G-7-604(1)(c). **Personal Injury:** $583,900. U.C.A. § 63G-7-604(1)(a). $2 million limit to aggregate amount of individual awards for single occurrence. U.C.A. § 63G-7-604(1)(d).

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VERMONT	**Vermont Tort Claims Act.** Vt. Stat. Ann. 12, §§ 5601-5606 (1961).	Notice of a claim against a town for insufficiency of a bridge or culvert must be within 20 days. Vt. Stat. Ann. 19, § 987. Personal injury and property claims must be filed within 3 years. Vt. Stat. Ann. 12, §§ 512(4) and 512(5). Small claims ($2,000 or less) against State must be filed within 18 months. Vt. Stat. Ann. 32, § 932(b). Agent for service is Attorney General.	State and its employees liable to same extent as private individual, unless exception listed in Vt. Stat. Ann. 12, § 5601(e). Exclusive right of action is against State not employee (except for gross negligence, willful act). Vt. Stat. Ann. 12, § 5602(a)(b). State employees liable for operating motor vehicle because source of their employment is unconnected to tort of negligent driving. *Kennery v. State*, 38 A.3d 35 (Vt. 2011). Small claim (under $2,000) against State not otherwise allowed may be filed in Small Claims Court. Vt. Stat. Ann. 32, § 932(a).	Exceptions to waiver of immunity set forth in § 5601(e): (1) *discretionary* function: (a) involves either an element of judgment/ choice or a statute or regulation prescribes a course of action, and (b) is it type of act protected by the exception (presumption can be rebutted)? *Searles v. Agency of Transp.,* 762 A.2d 812 (Vt. 2000) (*e.g.,* no liability for operating emergency vehicle pursuant to § 1015(a)(4) (with lights and siren); (2) any claim arising from selection of or purposeful deviation from standards for planning and design of highways; and (3) above exceptions do not apply if there is policy of insurance purchased by Commissioner of Buildings and General Services or if employee purchased policy covering gross negligence. No subrogation claims against State.	Maximum liability of the State is $500,000 to any one person and maximum aggregate liability is $2,000,000 to all persons arising out of each occurrence. Vt. Stat. Ann. 12, § 5601(b).

STATE	TORT CLAIMS ACT (None or Citation)	NOTICE DEADLINES	CLAIMS/ACTIONS ALLOWED	COMMENTS/EXCEPTIONS	DAMAGE CAPS
VIRGINIA	**Virginia Tort Claims Act.** Va. St. §§ 8.01-195.1 to 195.9 (1981). Provides a *limited* right to sue State employee when a *private entity or individual would be liable*, provided the State employee is acting in *course and scope*. Only *partial waiver* of sovereign immunity. Commonwealth is immune from tort liability for acts of employees, unless an express statutory or constitutional provision waives that immunity. Immunity of judges, attorneys, and public officers of Commonwealth is preserved.	Notice must be given within one (1) year of when claim accrued. Va. St. § 8.01-195.6 Claim filed with Director of the Division of Risk management or the Attorney General. Must contain nature of claim, time and place, name of agency at fault. Must sue within 18 months of filing notice. Va. St. § 8.01-195.7.	Commonwealth employee is immune if act *ministerial* (follows statute or established rules), but not *discretionary* (use of judgment). *Messina v. Burden*, 321 S.E.2d 657 (Va. 1984). Claims allowed include: ***Maintenance*:** Failure to correct hazardous roadway conditions within reasonable time. ***General Hazards*:** Hazards created by design, construction, and maintenance problems (*e.g.,* poor signing, low shoulders). ***Work Zones*:** Hazardous construction and work zones (involving motor vehicles). ***Operations*:** Hazards created by general operations and work zone activity that do not involve motorists. ***Operating Motor Vehicle*:** Is ministerial act. *Heider v. Clemons*, 400 S.E.2d 190 (Va. 1991).	Exceptions to waiver of immunity are listed in Va. St. § 8.01-195.3. (1) Tax assessment; (2) Judicial Proceeding; and (3) Execution of Court Order. Claims against Commonwealth for medical negligence subject to Chapter 21.1 (Va. St. § 8.01-581.1, *et seq*.). Recovery in medical malpractice shall not exceed the limits imposed by Va. St. § 8.01-195.3. Immunity waived only for *ministerial* acts (obedience to authority without regard to or the exercise of his or her own judgment) but not for *discretionary* acts, which have follow characteristics: (1) an authorized individual or agency was given the power and duty to make a decision; (2) the decision was made from a set of valid alternatives; and (3) the individual or agency exercised independent judgment in making the selection. No exception for intentional acts. No immunity if intentional tort or actions outside scope of employment. *Bailey v. Lewis*, 2012 WL 9735223 (Va. Cir. Ct. 2012); *Messina v. Burden*, 321 S.E.2d 657 (Va. 1984).	Immunity is waived up to $100,000 or the amount of the State's insurance coverage, whichever is greater, exclusive of interest and costs. Va. St. § 8.01-195.3.

STATE	TORT CLAIMS ACT (None or Citation)	NOTICE DEADLINES	CLAIMS/ACTIONS ALLOWED	COMMENTS/EXCEPTIONS	DAMAGE CAPS
WASHINGTON	**Actions and Claims Against State.** R.C.W.A. § 4.92.090, *et seq*. (1963). Whether acting in governmental or proprietary capacity, State and its employees liable for torts the same as private person. R.C.W.A. § 4.92.090. One of the broadest waivers of sovereign immunity in the country.	Verified Notice of Claim form must be filed with Washington Office of Risk Management prior to the expiration of the statute of limitations for the claim (running of Statute of Limitations not affected). R.C.W.A. § 4.92.100. Must describe time, place, conduct and circumstances of injury, names of all witnesses and relevant persons, amount of damages, and address of claimant. Suit cannot be filed until 60 days after standard tort claim form filed. R.C.W.A. § 4.92.110.	There is no immunity and State is liable if: (1) police high speed chase; (2) discharge of raw sewage into river: and (3) operating motor vehicle. *Rahman v. State*, 1246 P.3d 182 (Wash. 2011), overturned due to legislative action. No immunity for discretionary activities, unless the government could show that a "policy decision." *King v. City of Seattle*, 525 P.2d 228 (Wash. 1974).	No liability can be imposed against State for "discretionary acts" of State. *Evangelical United Brethren Church of Adna v. State*, 407 P.2d 440 (Wash. 1965). Guidelines used to determine if act "discretionary": (1) involve basic government policy, program, or objective?; (2) is act essential to realization of that policy, program or objective?; and (3) does act involve judgment? Policy-making is immune. *Evangelical Church of Adna v. State*, 407 P.2d 440 (Wash. 1965). Discretionary decisions must be made at a "truly executive level" rather than an operational level. *Mason v. Bitton*, 534 P.2d 1360 (Wash. 1975).	No caps or limitations. State liable for damages arising out of tortuous conduct, whether acting in governmental or proprietary capacity, to same extent as if it were a private person or corporation. R.C.W.A. § 4.92.090.

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WEST VIRGINIA	**Governmental Tort Claims Act.** W. Va. Code § 29-12-1 to § 29-12-1 (1957). Article VI, § 35 of the West Virginia Constitution provides immunity to State. "*The State of West Virginia shall never be made defendant in any court of law or equity*."	Claim must be brought against State within two years after cause of action arose. W. Va. Code § 29-12A-6(a).	State entities and officials are absolutely immune from policy-making acts and have qualified immunity for *discretionary* acts that do not violate clearly established rights and laws. *Discretionary* acts that *do* violate clearly established laws which occur outside of the public official's scope of employment strip the official of his or her qualified immunity, but the State entity retains its immunity. If the official's offending acts or omissions occur within the scope of the official's employment, both the State entity and the official lose their immunity.	Courts have carved out exceptions to absolute grant of immunity including suits that seek recovery under and up to the State's liability insurance coverage. *Univ. of W. Virginia Bd. of Trustees ex rel. W. Virginia Univ. v. Graf*, 516 S.E.2d 741 (W. Va. 1998). The Board of Risk and Insurance Management has control over all insurance covering State property, activities and responsibilities. Each policy insuring the State must provide that the insurer is barred and estopped from relying upon the constitutional immunity of the State of West Virginia against claims or suits. The State is protected from suits by purchasing adequate insurance coverage. W. Va. Code § 29-12-5(a). Where policy is silent on whether State and its insurer can claim the benefit of immunity, the immunity of the State is determined by the qualified immunity of a public executive official whose acts or omissions give rise to the case. *Parkulo v. W. Virginia Bd. of Prob. & Parole*, 483 S.E.2d 507 (W. Va. 1996).	State authorized to purchase liability insurance covering State "property, activities and responsibilities." W. Va. Code § 29-12-5 State Board of Risk and Insurance Management must purchase insurance which "shall provide that the insurer shall be barred and estopped from relying upon immunity." Limited by insurance coverage purchased by State Board of Risk and Insurance Management. *State ex rel. W.Va. Dept. of Transp., Highways Division v. Madden,* 453 S.E.2d (W. Va. 1994).

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WISCONSIN	**Claims Against Governmental Bodies, Officers and Employees.** Wis. Stat. §§ 893.80-.83 (1987). Qualified immunity for acts done in exercise of legislative, quasi-legislative, judicial or quasi-judicial functions. (*i.e.,* discretion).	Written notice of claim must be served within 120 days. Wis. Stat. § 893.80(1d)(a) (for municipal entities and employees); Wis. Stat. § 893.82(3) (for the State and its employees).	The State and its employees may be sued for "an act growing out of or committed in the course of the discharge of the officer's, employee's or agent's duties." Wis. Stat. § 893.82(3). With respect to claims against governmental entities, "so far as governmental responsibility for torts is concerned, the rule is liability - the exception is immunity." *Holytz v. City of Milwaukee*, 17 Wis.2d 26, 39, 115 N.W.2d 618 (1962).	Three exceptions to immunity: (1) Known danger exception: Situation so dangerous that it is clear the police officer or State employee required to act in certain way; (2) *Ministerial* duty exception: State employee required by law to act in specific way. (*e.g.,* Wis. Stat. § 346.03 says emergency vehicles given certain privileges when light and siren on); and (3) Willful and wanton acts. *Lodi v. Progressive*, 646 N.W.2d 314 (Wis. 2002). State employee is liable for performance of *ministerial*, not *discretionary* duties. Is ministerial only when it is absolute, certain and imperative, involving merely the performance of a specific task when the law imposes, prescribes and defines the time, mode and occasion for its performance with such certainty that nothing remains for judgment or discretion." *Pries v. McMillon*, 784 N.W.2d 648 (Wis. 2010).	$50,000 for claims against municipal entities and their employees; no punitive damages allowed. Wis. Stat. § 893.80(3). $250,000 for claims against the State and its employees; no punitive damages allowed. Wis. Stat. § 893.82(6). $250,000 limit for negligent operation of any municipal (except vehicles not required to be registered [$50,000] per § 345.05(1)(bm)). Wis. Stat. § 345.05.

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WYOMING	**Wyoming Governmental Claims Act (WGCA).** Wyo. Stat. §§ 1-39-101 to 121 (1979). Except as provided in the WGCA, a governmental entity (*i.e.,* state or local government body) is granted immunity from liability for any tort. Wyo. Stat. § 1-39-104.	Written Notice of Claim must be presented with two (2) years. Wyo. Stat. § 1-39-113. Compliance with Notice of Claim requirement no longer has to be alleged in complaint. *Brown v. City of Casper*, 248 P.3d 1136 (Wyo. 2011). Suit must be filed within one (1) year of written Notice of Claim. Wyo. Stat. § 1-39-114.	Claims allowed for: (1) Operating motor vehicle: Wyo. Stat. § 1-39-105. (2) Operating building or park: Wyo. Stat. § 1-39-106. (3) Airport: Wyo. Stat. § 1-39-107 (4) Operating public utilities (gas, electric, water, etc.) and ground transportation: Wyo. Stat. § 1-39-108. (5) Operating hospital: Wyo. Stat. § 1-39-109. (6) Torts of police: Wyo. Stat. § 1-39-112.	The WGCA abolishes all judicially created categories such as governmental or proprietary functions and discretionary or ministerial acts previously used by the courts to determine immunity or liability. Exclusions from the waiver of liability are listed at W.S. 1-39-120: (1) defect in plan or design of bridge, culvert, highway, road, street, sidewalk or parking lot; (2) failure to construct or reconstruct bridge, culvert, etc.; and (3) maintenance, including maintenance to compensate for weather conditions, of any bridge, culvert, etc.	**Personal Injury:** $250,000 Per Person; $500,000 Per Occurrence State can purchase liability insurance in which case limits are extended to match limits of policy. Wyo. Stat. § 1-39-118. **Property Damage:** Claim must be less than $500. Wyo. Stat. § 1-39-118(f).

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